

REMARKS

The application is amended and is believed to have been placed in condition for allowance. The instant amendment responds to the Final Rejection of November 13, 2008 (the "Official Action") as part of a Request for Continued Examination ("RCE").

As an initial matter, the undersigned appreciates the courtesy extended by the Examiner and her Supervisor in taking time to meet and discuss this matter in an in-person interview (the "Interview") on May 7, 2009.

Additionally, the indication in the Advisory Action of April 8, 2009 (the "Advisory Action") that the rejections over Baumgartner (U.S. Publication 2002/0048553; hereinafter "BAUMGARTNER") are overcome is gratefully acknowledged. It is further noted that claims 3-4 and 24-25 are indicated as objected, and not rejected, in the Summary Page of the Advisory Action.

Said status of claims 3-4 and 24-25 was one of the topics of discussion in the Interview. The undersigned recalls that the Examiner stated that claims 3-4 and 24-25 recite subject matter that overcomes the references cited in the Office Action of November 13, 2008.

There are no formal matters pending.

Amendments to the Disclosure

Claims 12 and 14-17 are canceled without prejudice. Applicants reserve the right to reintroduce the subject matter of the canceled claims in this or a subsequent application.

Independent claims 1 and 23 are amended to recite agar as the gelling agent, based on the Examiner's statement in the Interview indicated above. The amendment finds support in the claims, specification and drawing figures as originally filed (e.g., claims 3 and 4) and does not introduce new matter.

Claim 1 is further amended to recite a mass between 0.25 and 2.0 grams, the bead having a compact, stable shape, and a homogenous composition including between 0.5 and 1.2 percent agar by weight. The amendments find support in the specification and the drawing figures as originally filed (e.g., page 7, lines 1-5; page 20, second full paragraph) and do not introduce new matter.

Claim 7 is amended to recite gel framework being configured to be disrupted by any of the mouth of the person and against a toothbrush before a brushing procedure begins. The amendment finds support in the specification and the drawing figures as originally filed (e.g., pages 21-22) and does not introduce new matter.

Claim 10 is amended to incorporate the subject matter of claim 12, and does not introduce new matter.

Withdrawn claim 18 is amended consistent with the amendments foregoing, finding support in the specification and the drawing figures as originally filed (e.g., Figures 8-9); the amendment to claim 18 does not introduce new matter.

The claims are also amended with minor revisions as to form in consideration of U.S. practice and preferences.

New claim 28 finds support at least in page 20, second full paragraph.

New claim 29 finds support at least in pages 24-25 of the specification and original claims 15-17.

New claim 30 finds support at least at page 22, lines 4-5 of the specification.

New claims 31-33 find support at least at pages 20-21 and pages 27-28 of the specification.

None of the new claims introduced herein introduce new matter.

Claim Rejections - Section 102

The Official Action rejected claims 1, 3-5, 13, and 23-26 under 35 USC 102(b) as being anticipated by Baumgartner (U.S. Publication 2002/0048553; hereinafter "BAUMGARTNER"). This rejection is maintained from the previous Official Action of January 15, 2008 (the "previous Official Action").

In response, it is respectfully submitted that this rejection has been overcome, based on the indication in the first paragraph of page 2 of the Advisory Action that the rejection

over BAUMGARTNER, and it is further respectfully submitted that the present amendments to independent claims 1 and 23 do not obviate the foregoing indication of the Advisory Action.

In addition, it is respectfully submitted that new claim 30 is patentable over BAUMGARTNER for at least the same reasons indicated in the Advisory Action as to independent claims 1 and 23.

Withdrawal of the rejection over BAUMGARTNER is thereby respectfully solicited.

Claim Rejections - Section 103

The Official Action rejects claims 1, 5, 7-9, 13, 23 and 26-27 under 35 USC 103(a) as being unpatentable over Schmidt (U.S. Patent 5,354,551; hereinafter "SCHMIDT") in view of Alexander (WO 2002/026078, English Equivalent U.S. Publication 2004/0091431; hereinafter "ALEXANDER").

In response, it is respectfully submitted that neither SCHMIDT nor ALEXANDER, individually or in combination, teaches or suggests a semi-solid composition as recited in independent claims 1 and 23 wherein the gelling agent is agar.

On the contrary, SCHMIDT teaches a thin film, not a compact bead as required by the present invention. ALEXANDER fails to teach a homogenous and non-encapsulated single-dose gel bead comprised of a single dose of an active ingredient intimately mixed with a gelling agent wherein the gelling agent provides a gel framework.

Moreover, neither of the cited references, individually or in combination, teaches or suggests a gelling agent comprising agar.

It is therefore respectfully submitted that independent claims 1 and 23, as amended, overcome the references SCHMIDT and ALEXANDER, and are therefore patentable.

It is also respectfully submitted that new independent claim 30 is patentable over SCHMIDT and ALEXANDER as neither of SCHMIDT and ALEXANDER, individually or in combination, teaches or suggests a semi-solid composition as recited in claim 30 wherein the gelling agent comprises carrageenan.

It is further respectfully submitted that claims depending from independent claims 1 and 23 are patentable at least for depending from a patentable parent claim.

Accordingly, reconsideration and withdrawal of the rejection over SCHMIDT and ALEXANDER are respectfully requested.

Rejoinder of the Withdrawn Claims

It is respectfully submitted that withdrawn claims 10, 11, and 18 each properly depend from an allowable parent claim, requiring all the recitations of the allowable parent claim. It is further respectfully submitted that withdrawn new claims 31-33, directed to a process for making the invention as recited in claim 1, is commensurate in scope with an allowable product claim and requires all the recitations of the allowable product claim.

Accordingly, rejoinder of all the withdrawn claims is respectfully requested.

Conclusion

From the foregoing, it will be apparent that Applicants have fully responded to the November 13, 2008 Official Action and that the claims as presented are patentable. In view of this, Applicants respectfully request reconsideration of the claims, as presented, and their early passage to issue.

In order to expedite the prosecution of this case, it is requested that the Examiner telephone the attorney for Applicants at the number set forth below if the Examiner is of the opinion that further discussion of this case would be helpful.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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